

REMARKS

The Examiner is respectfully requested to reconsider the present application in response to the above amendments and the following comments. Claims 1, 4-16 and 18-21 are present in this application. It is submitted that each of these claims is patentable for the reasons set forth below.

Claims 1-17 were rejected as anticipated by Camp '010, Couture '872, Cervenka '155 or Sheets '670. Reconsideration is respectfully requested.

Applicant's disclosure

Applicant's invention is a tool 10 (in the embodiment of figures 1-6) that is pressed into the ground and rotated in order to extract a weed from the ground (see paragraphs 0030-0032 at page 5 of the specification). A claw structure 14 includes first and second blades or points 16 and 18. The first blade 16 is formed by a central shaft 12 having a single, central point that permits the shaft 12 and the tool 10 to enter the ground and to be rotated. The second blade 18 is formed on a blade defining panel member 20 that has a central portion 36 pivoted to the shaft 12. A lever portion 42 with a handle 44 extends away from the central portion 36 in the direction opposite to the blade portion 18. An O-ring spring 22 biases the blades 16 and 18 toward one another.

In the embodiment of figures 1-6, The blade defining panel member 20 is in a flat plane, and the member 20 including the second blade 18, lies in a flat plane that coincides with the axis of the shaft 12. In contrast, in the embodiment of figures 7-15, the blade defining panel member 70 includes a formed corner 82, and the second blade 58 lies in a plane that is parallel to and spaced from the axis of the shaft 52.

The references

None of the references relied upon in the rejection of the claims discloses a tool that is capable of extracting a weed using rotary action. To the contrary, each of these references discloses a tool that grasps a weed with a pliers action so that the user pulls the weed up from the ground.

Camp '010 discloses a weed remover 10 with a tubular member 14. A cranked pivotal jaw 32 is pivoted to the tubular member 14. Rectangular jaws 26 and 36 are carried by the tubular member 14 and the pivotal jaw 32. A coil spring 42 engaging a lever portion of the pivotal jaw 32 biases the jaws 26 and 36 apart. The tool is used by clamping the jaw members on a weed (column 2, line 66 - column 3, line 3). The Camp '010 tool cannot be pressed down into the ground and rotated in order to extract a weed with a rotary motion.

Couture '872 discloses a weed extraction tool with a staff 5 carrying a blade 6 having an inverted V-shaped cutting edge 6c. A lever 7 is pivoted to the staff 5 and includes a curved gripping arm 7b. A coil spring 9 is connected between the lever 7 and the staff 5 to bias the gripping arm 7b away from the cutting edge 6c. In use the blade 6 is pushed into the ground to approach or cut the root of a weed. The gripping arm 7b is swung down to engage the weed so that the weed can be lifted from the ground (page 2, column 1, lines 1-21). The Couture '872 tool is not intended to be rotated, and the flat shape of the blade 6 would interfere with any attempt to rotate the tool in the ground.

Cervenka '155 discloses an implement with an elongated rod 2 carrying a sharpened chisel tool 3. A lever 10 is pivoted on the rod 2 and includes an arm 13. A coil spring 28 engages a segment of the lever 10 and biases the arm 13 away from the chisel 3. In use the tool is thrust into the earth and the chisel 3 severs a plant root. The

arm 13 of the lever 10 is pivoted to grasp the plant between the tool 3 and the portion 14 of the arm 13. The implement is withdrawn, carrying with it the gripped plant (page 1, column 2, lines 4-18). The Cervenka '155 implement is not intended to be rotated, and the flat, chisel shape of the tool 3 would impede any rotation.

Sheets '670 discloses a tool with an elongated handle 10 carrying an elongated flat blade 11 with a V-shaped notch 14 defining cutting teeth 15. A gripping jaw 17 is pivoted to the handle 10 and is biased by a coil spring 27. In operation, the blade 11 is inserted into the soil and the root of a weed is severed by the teeth 15. The jaw 17 pivots to grip the weed and clamp it against the blade 11, and the weed is lifted from the soil. The Sheets '670 tool is not rotated, and the flat shape of the blade 11 would interfere with any attempt to rotate the tool.

The claims

Reconsideration is respectfully requested of the rejection of claims 1 and 4-16 as anticipated. Independent claim 1 is directed to a rotary weed extraction tool including a first blade of a pair of blades that is formed of the lower end of an elongated shaft having a single point. This single point shaft construction is what permits the rotary weed extraction of the invention, and this construction is not disclosed in any of the applied references.

Camp '010 discloses a tubular member 14 having a rectangular jaw 28 and having no point. Couture '872 discloses a staff 5 carrying a blade 6 having an inverted V-shaped cutting edge 6c. Even if the cutting edge 6c were considered to have points, nevertheless the reference does not disclose a shaft having a single point as set forth in claim 1. Cervenka '155 discloses a rod 2 carrying a sharpened chisel tool 3, and does not disclose a pointed shaft. Sheets '670 discloses an elongated handle 10 carrying an elongated flat

blade 11 with a V-shaped notch 14. Even if the cutting teeth 15 were considered to be points, the reference does not disclose a shaft having only a single point as set forth in claim 1.

Claim 1 is not anticipated and is patentable because the prior art including the applied references does not disclose a rotary weed extraction tool as claimed in claim 1 including a shaft with a lower end having a single point. Claims 4-16 are dependent on claim 1 and are patentable for the same reasons.

Claims 8, 9 and 14 are submitted to be patentable because they are further directed to a tool having a rubber or rubber-like spring for biasing the first and second blades toward one another. The springs of the Camp '010, Couture '872 and Cervenka '155 references bias the portions of the tool apart, rather than together as set forth in claim 1. In addition all of the Camp '010, Couture '872, Cervenka '155 and Sheets '670 references use coil springs, rather than rubber or rubber-like springs as set forth in claims 8 and 14. Further, with respect to claims 9 and 14, the references do not disclose use of a spring in the form of an O-ring or in the form of material in the pivot support slot. Claims 8, 9 and 14 are believed to be patentable for these additional reasons.

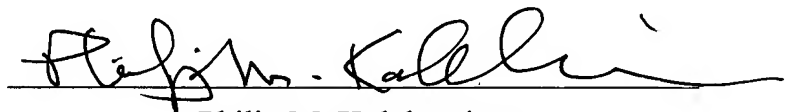
Claim 10 is submitted to be patentable for the additional reason that it directed to a tool having a blade defining member including a lever portion with a handle. In applicant's tool, the lever portion 42 (or 76) includes a handle 44 (or 78) permitting the user to directly grasp the blade defining member. In Camp '010, Couture '872, Cervenka '155 and Sheets '670, the pivoted member does not include a handle. Instead, in each of these references, a handle is located above and remote from the pivoted member, and a complicated linkage of some type is needed to move the pivoted member in response to movement of the remote handle. Claim 10 is believed to be patentable for this additional reason.

New claims 18-21 are also submitted to be patentable. Independent claim 18 is directed to a tool with a shaft having a single point located on the axis of the shaft. Claim 18 is further directed to a tool having a second, pointed blade on a blade defining member having a handle lever. Dependent claim 19 is directed to a tool with a blade biasing spring in the form of a flexible, expansible band. Dependent claim 20 is directed to a tool using a O-ring as a spring.

New claim 21 is a method claim. Even if, contrary to the above analysis, the prior art did disclose the claimed structure of applicant's tool, nevertheless the prior art does not disclose a method for extracting a weed using the tool in a rotational operation as disclosed in the present application.

For the above reasons, it is submitted that each of claims 1, 4-16 and 18-21 is patentable. Allowance of the present application is therefore respectfully solicited.

Respectfully submitted,



Philip M. Kolehmainen
Reg. No. 22,992
Telephone No. 312-987-2914